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## **MEMORANDUM**

**TO:** Agency Payroll and Personnel Representatives

**FROM:** Division of Accounting

**DATE:** May 21, 2004

**RE:** I-9 Forms

Federal law in effect since 1986 requires you to complete form I-9 for each new employee within three days of hiring. Even if you are familiar with this employment eligibility verification form, you may be completing it incorrectly and subjecting the State to possible monetary penalties. The purpose of the form is to prevent the hiring of unauthorized aliens.

Form I-9 walks you through the process of checking an employee's passport, green card, driver's license, Social Security card, birth certificate, or other documents that demonstrate eligibility to work in the United States. If completed correctly, the I-9 can help the State avoid paying civil fines ranging from \$250 to \$10,000. The points to understand to complete this form correctly include:

**Complete the entire form.** Often, employees fill out Section 1, but employers don't fill out Section 2. In Section 2, the employer reviews the employee's documentation, verifying the employee's eligibility to work. You can't simply accept what the employee puts on the top of the form.

**Employee can decide which forms of verification to present.** Employers give employees the three lists of acceptable documents and then record what the employees submit as proof. The U.S. Citizenship and Immigration Service (USCIS) will be satisfied if an employee has either one document from List A, or documents from both Lists B and C on page 3 of the form. It is important to photocopy the documents employees present as proof that you checked them.

**Time limit of three days to complete the form.** Many employees will hesitate or forget to bring in their documents. Send them home if necessary. Get the documents. If employees say they have applied for a required document, insist on seeing the receipt for the application of the document within the first three days and require them to present the actual document within 90 days.

**Re-verify employees' eligibility before expiration of submitted documents.** If your employee gives you a USCIS temporary card or other expiring authorization, you must record the expiration date on the I-9. Then calendar that date as a reminder to verify that the employee is still eligible to work when that document expires. Complete Section 3 of the form when you update the verification.

**Good faith effort required to ensure you have been shown valid documents.** Document fraud is rampant. Green cards sell for as little as \$40 on the black market. You must be diligent when reviewing the documents presented to you. The USCIS booklet explaining Form I-9 offers examples of what to look for in a valid document. Photocopies are not acceptable. The employee must present original documentation or a certified copy of a birth certificate. The Social Security Administration will let you call 800-772-6270 to verify the validity of up to five green cards. Be sure you verify the cards presented by all new hires to avoid any hint of discrimination.

**Valid Documentation** is listed on the Form I-9, however a few changes have been made that are not revised on the form. They include:

- Form I-766 (Employment Authorization Document), although not listed on the 11/21/91 version of the Form I-9, is an acceptable List A document #10.
- Form I-151, is no longer an acceptable List A document #5. However, Form I-551 remains an acceptable List A document #5.
- The following documents have been removed from the list of acceptable identity and work authorization documents: Certificate of U.S. Citizenship (List A #2), Certificate of Naturalization (List A #3), Unexpired Reentry Permit (List A #8), and Unexpired Refugee Travel Document (List A #9).

**Watch for other designations that may affect tax withholdings.** A nonresident alien who is in the United States as a student on an “F” visa, or as a teacher, trainee, or specialist on a “J” visa may be exempt from tax withholdings. Check for these designations when entering the tax information. Catching this up front can save the employee and the State efforts in retrieving erroneously withheld taxes.

**Prohibited from hiring** if the employee cannot verify his or her eligibility to work. You may even have to fire a new employee on the spot if he or she can’t provide the required documentation. If you follow the rules spelled out on Form I-9, you won’t expose the State to a suit for wrongful termination.

**Retention Information.** No filing with the Bureau of Immigration and Customs Enforcement (ICE) is required. The I-9 form must be kept by the employer either for three years after the date of hire, or for one year after employment is terminated, whichever is later. The form must be available for inspection by the authorized U.S. Government officials (i.e., ICE, Department of Labor).

A copy of the official I-9 form is attached. If you have questions about this form, please see <http://uscis.gov/graphics/formsfee/forms/i-9.htm> or contact the USCIS at 1 (800) 357-2099.

## Employment Eligibility Verification

### INSTRUCTIONS

PLEASE READ ALL INSTRUCTIONS CAREFULLY BEFORE COMPLETING THIS FORM.

**Anti-Discrimination Notice.** It is illegal to discriminate against any individual (other than an alien not authorized to work in the U.S.) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

**Section 1 - Employee.** All employees, citizens and noncitizens, hired after November 6, 1986, must complete Section 1 of this form at the time of hire, which is the actual beginning of employment. **The employer is responsible for ensuring that Section 1 is timely and properly completed.**

**Preparer/Translator Certification.** The Preparer/Translator Certification must be completed if Section 1 is prepared by a person other than the employee. A preparer/translator may be used only when the employee is unable to complete Section 1 on his/her own. However, the employee must still sign Section 1.

**Section 2 - Employer.** For the purpose of completing this form, the term "employer" includes those recruiters and referrers for a fee who are agricultural associations, agricultural employers or farm labor contractors.

Employers must complete Section 2 by examining evidence of identity and employment eligibility within three (3) business days of the date employment begins. If employees are authorized to work, but are unable to present the required document(s) within three business days, they must present a receipt for the application of the document(s) within three business days and the actual document(s) within ninety (90) days. However, if employers hire individuals for a duration of less than three business days, Section 2 must be completed at the time employment begins. **Employers must record: 1) document title; 2) issuing authority; 3) document number, 4) expiration date, if any; and 5) the date employment begins.** Employers must sign and date the certification. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. These photocopies may only be used for the verification process and must be retained with the I-9. **However, employers are still responsible for completing the I-9.**

**Section 3 - Updating and Reverification.** Employers must complete Section 3 when updating and/or reverifying the I-9. Employers must reverify employment eligibility of their employees on or before the expiration date recorded in Section 1. Employers **CANNOT** specify which document(s) they will accept from an employee.

- If an employee's name has changed at the time this form is being updated/ reverified, complete Block A.
- If an employee is rehired within three (3) years of the date this form was originally completed and the employee is still eligible to be employed on the same basis as previously indicated on this form (updating), complete Block B and the signature block.

- If an employee is rehired within three (3) years of the date this form was originally completed and the employee's work authorization has expired or if a current employee's work authorization is about to expire (reverification), complete Block B and:
  - examine any document that reflects that the employee is authorized to work in the U.S. (see List A or C),
  - record the document title, document number and expiration date (if any) in Block C, and complete the signature block.

**Photocopying and Retaining Form I-9.** A blank I-9 may be reproduced, provided both sides are copied. The Instructions must be available to all employees completing this form. Employers must retain completed I-9s for three (3) years after the date of hire or one (1) year after the date employment ends, whichever is later.

**For more detailed information, you may refer to the INS Handbook for Employers, (Form M-274). You may obtain the handbook at your local INS office.**

**Privacy Act Notice.** The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 USC 1324a).

This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States.

This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by officials of the U.S. Immigration and Naturalization Service, the Department of Labor and the Office of Special Counsel for Immigration Related Unfair Employment Practices.

Submission of the information required in this form is voluntary. However, an individual may not begin employment unless this form is completed, since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.

**Reporting Burden.** We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: **1) learning about this form, 5 minutes; 2) completing the form, 5 minutes; and 3) assembling and filing (recordkeeping) the form, 5 minutes,** for an average of 15 minutes per response. If you have comments regarding the accuracy of this burden estimate, or suggestions for making this form simpler, you can write to the Immigration and Naturalization Service, HQPDI, 425 I Street, N.W., Room 4034, Washington, DC 20536. OMB No. 1115-0136.

## Employment Eligibility Verification

Please read instructions carefully before completing this form. The instructions must be available during completion of this form. **ANTI-DISCRIMINATION NOTICE:** It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

### Section 1. Employee Information and Verification.

To be completed and signed by employee at the time employment begins.

Print Name: Last	First	Middle Initial	Maiden Name
Address (Street Name and Number)		Apt. #	Date of Birth (month/day/year)
City	State	Zip Code	Social Security #
I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.		I attest, under penalty of perjury, that I am (check one of the following):	
		<input type="checkbox"/> A citizen or national of the United States <input type="checkbox"/> A Lawful Permanent Resident (Alien # A_____ <input type="checkbox"/> An alien authorized to work until ____/____/____ (Alien # or Admission #) _____	
Employee's Signature			Date (month/day/year)

**Preparer and/or Translator Certification.** (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature	Print Name
Address (Street Name and Number, City, State, Zip Code)	
Date (month/day/year)	

### Section 2. Employer Review and Verification.

To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s)

List A	OR	List B	AND	List C
Document title: _____		_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): ____/____/____		____/____/____		____/____/____
Document #: _____				
Expiration Date (if any): ____/____/____				

**CERTIFICATION** - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) \_\_\_\_/\_\_\_\_/\_\_\_\_ and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name	Address (Street Name and Number, City, State, Zip Code)	Date (month/day/year)

### Section 3. Updating and Reverification.

To be completed and signed by employer.

A. New Name (if applicable)	B. Date of rehire (month/day/year) (if applicable)
C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.	
Document Title: _____ Document #: _____ Expiration Date (if any): ____/____/____	
I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.	
Signature of Employer or Authorized Representative	Date (month/day/year)

## LISTS OF ACCEPTABLE DOCUMENTS

LIST A		LIST B		LIST C
Documents that Establish Both Identity and Employment Eligibility	OR	Documents that Establish Identity	AND	Documents that Establish Employment Eligibility
1. U.S. Passport (unexpired or expired)		1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address		1. U.S. social security card issued by the Social Security Administration ( <i>other than a card stating it is not valid for employment</i> )
2. Certificate of U.S. Citizenship ( <i>INS Form N-560 or N-561</i> )		2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address		2. Certification of Birth Abroad issued by the Department of State ( <i>Form FS-545 or Form DS-1350</i> )
3. Certificate of Naturalization ( <i>INS Form N-550 or N-570</i> )		3. School ID card with a photograph		3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
4. Unexpired foreign passport, with <i>I-551 stamp</i> or attached <i>INS Form I-94</i> indicating unexpired employment authorization		4. Voter's registration card		4. Native American tribal document
5. Permanent Resident Card or Alien Registration Receipt Card with photograph ( <i>INS Form I-151 or I-551</i> )		5. U.S. Military card or draft record		5. U.S. Citizen ID Card ( <i>INS Form I-197</i> )
6. Unexpired Temporary Resident Card ( <i>INS Form I-688</i> )		6. Military dependent's ID card		6. ID Card for use of Resident Citizen in the United States ( <i>INS Form I-179</i> )
7. Unexpired Employment Authorization Card ( <i>INS Form I-688A</i> )		7. U.S. Coast Guard Merchant Mariner Card		7. Unexpired employment authorization document issued by the INS ( <i>other than those listed under List A</i> )
8. Unexpired Reentry Permit ( <i>INS Form I-327</i> )		8. Native American tribal document		
9. Unexpired Refugee Travel Document ( <i>INS Form I-571</i> )		9. Driver's license issued by a Canadian government authority		
10. Unexpired Employment Authorization Document issued by the INS which contains a photograph ( <i>INS Form I-688B</i> )		<b>For persons under age 18 who are unable to present a document listed above:</b>		
		10. School record or report card		
		11. Clinic, doctor or hospital record		
		12. Day-care or nursery school record		

Illustrations of many of these documents appear in **Part 8 of the Handbook for Employers (M-274)**